

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

FREEDOM FROM RELIGION
FOUNDATION, INC., ANNE NICOL
GAYLOR, ANNIE LAURIE GAYLOR,
PAUL GAYLOR, DAN BARKER,
PHYLLIS ROSE, and JILL DEAN,

Plaintiffs,

v.

PRESIDENT BARACK OBAMA,
WHITE HOUSE PRESS SECRETARY
ROBERT L. GIBBS, WISCONSIN GOVERNOR
JIM DOYLE, and SHIRLEY DOBSON,
CHAIRMAN OF THE NATIONAL DAY
OF PRAYER TASK FORCE,

Defendants.

Case No. 08-CV-588

FEDERAL DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants President Barack Obama and White House Press Secretary Robert L. Gibbs (collectively "Federal Defendants"), by undersigned counsel, hereby move for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. Summary Judgment is appropriate because there is no genuine issue as to any material fact regarding the plaintiffs' lack of standing to challenge the National Day of Prayer statute or presidential proclamations issued thereunder. In the alternative, summary judgment is appropriate because there is no genuine issue as to any material fact regarding the constitutionality of the National Day of Prayer statute. The grounds for this motion are set forth at length in the Memorandum of Law in Support of the Federal Defendants' Motion for Summary Judgment being filed herewith.

Pursuant to this Court's Briefing Guidelines, and due to the complexity of issues raised by this case, including substantial questions as to plaintiffs' standing to bring this case, the separation of powers concerns implicated by plaintiffs' proposed relief against the President of the United States of America, and plaintiffs' challenge to a statute that has existed for over half a century, the federal defendants respectfully request that this Court set a hearing on the federal defendants' motion.

Dated: October 9, 2009

Respectfully submitted,

TONY WEST
Assistant Attorney General

JOHN R. GRIFFITHS
Assistant Branch Director

/s/ Brad P. Rosenberg
BRAD P. ROSENBERG (DC Bar 467513)
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
Tel: (202) 514-3374
Fax: (202) 616-8460
brad.rosenberg@usdoj.gov

Mailing Address:
Post Office Box 883
Washington, D.C. 20044

Courier Address:
20 Massachusetts Ave., N.W.
Washington, D.C. 20001

COUNSEL FOR DEFENDANTS
PRESIDENT BARACK OBAMA AND
WHITE HOUSE PRESS SECRETARY
ROBERT L. GIBBS